

**Notice of Allowability**

Application No.

09/896,085

Examiner

Kevin S Wood

Applicant(s)

NEILSON ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Appeal Brief filed on 20 August 2004.
2. ☒ The allowed claim(s) is/are 1-18, 20, 22-24, 27-32.
3. ☒ The drawings filed on 29 June 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 11/12/04
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

  
Rodney Bovernick  
Supervisory Patent Examiner  
Technology Center 2800

## **ALLOWANCE**

### ***Response to Appeal Brief***

1. This action is responsive to the Appeal Brief filed on 20 August 2004. Claims 11 and 12 stand allowed. Claims 1-10, 13-20, 22-24, and 27-32 stand finally rejected.

### ***Response to Arguments***

2. Applicant's arguments, see the imaging arguments on pages 7-9, filed 20 August 2004, with respect to claims 1-10, 13-18, 20, 22-24, and 27-32 have been fully considered and are persuasive. The rejections of claims 1-10, 13-18, 20, 22-24, and 27-32 have been withdrawn. The examiner agrees that the Daneman et al. reference does not disclose MEMS devices 212 and 224 are not coupled by an imaging system capable of producing **an image** of a mirror within MEMS device 212 on a mirror of MEMS device 224. The Daneman et al. reference clearly discloses optical coupling between the mirrors within MEMS device 212 and the mirrors of MEMS device 224. However, optical coupling is not necessarily the same as imaging an image between the two devices. Claims 1-10, 13-18, 20, 22-24, and 27-32 are allowable for the reasons cited by the applicant starting within the fifth paragraph on page 7 and ending in the last paragraph of page 9.

3. Applicant's arguments with respect to claim 19 have been considered but are persuasive. Arguments with respect to claim 19 are moot, since the applicant has agreed to cancel claim 19. Claim 19 does not disclose that the first and second MEMS devices have mirrors that rotate about the same axis. This limitation was essential in

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overcoming the rejections based the Daneman et al. reference (U.S. Patent No. 6,330,102). The applicant agreed to cancel claim 19 because amending claim 19 to include the limitation of the first and second MEMS devices having mirrors that rotate about the same axis would have left claims 19 and claim 20 with identical scopes.

#### **EXAMINER'S AMENDMENT**

4. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Eugene Rosenthal on 12 November 2004.

The application has been amended as follows:

**Please cancel claim 19.**

#### ***Allowable Subject Matter***

5. Claims 1-10, 13-18, 20, 22-24, and 27-32 allowed.

#### ***Conclusion***


6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin S Wood whose telephone number is (571) 272-2364. The examiner can normally be reached on Monday-Thursday (7am - 5:30 pm).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rodney B Bovernick can be reached on (571) 272-2344. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
KSW

  
Rodney Bovernick  
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Technology Center 2800